
~~Public Notice~~

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**U.S. Army Corps
of Engineers**

In Reply Refer To:

Buffalo District CELRB-CO-R RE: 2001-2

Section: OH 10 and 404

**NATIONWIDE PERMIT REISSUANCE REQUEST FOR
COMMENTS AND NATIONAL PUBLIC HEARING ANNOUNCEMENT
section 10 of the Rivers and Harbors Act of 1899 and
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

On August 9, 2001, the U.S. Army Corps of Engineers published its proposal to reissue the Nationwide Permits (NWP) in the Federal Register.

The U.S. Army Corps of Engineers Headquarters Office will conduct a public hearing in Washington, D.C., on September 12, 2001, at the GAO Building, 7th floor auditorium. The intent of this hearing is to solicit public comments, both oral and written, on the NWP Program as a whole or on individually proposed NWPs on a national level. The public record for this hearing will conclude at the close of business on September 22, 2001. This date is separate from the Federal Register notice closing date for the receipt of written comments. For further information on the hearing or the proposed NWPs, please contact Mr. Rich White at (202)761-4599, or Mr. Sam Collinson, at (202)761-4594.

NWPs are general permits issued on a nationwide basis to authorize minor activities with minimal evaluation time. Some activities authorized by NWPs require pre-construction notification to the District Engineer before commencing with the work. This notification requirement to the District Engineer is necessitated to ensure that activities authorized by these NWPs have minimal individual and cumulative adverse impacts on the aquatic environment.

This notice is the public's opportunity to comment on the proposed re-issuance of existing NWPs and conditions. Comments on national issues relating to these NWPs should be sent to the GAO Building, Office of the Chief of Engineers, Regulatory Branch (ATTN:CECW-OR), 441 G Street, N.W., Washington, D.C. 20314-1000. Comments on the proposed new and modified NWPs are due by September 24, 2001.

In addition to the NWP general conditions, Division Engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or State. Regional conditions are an important mechanism to ensure that impacts to the aquatic environment authorized by the NWPs are minimal, both individually and

cumulatively. Division Engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g. States or watersheds) or high-valued aquatic systems where impacts authorized by those NWPs may be more than minimal. The proposed regional conditions for Ohio may be reviewed at <http://www.lrb.usace.army.mil/orgs/reg/index.htm>

The Buffalo District is seeking comments on the need for additional regional conditions to help ensure that impacts authorized by the proposed NWPs are minimal. In response to the comments received on regional conditions, an additional public notice announcing any additional proposed regional conditions will be published. When the Division Engineer approves regional conditions, those regional conditions become effective when the final NWP public notice is announced. Unless otherwise noted, all proposed regional conditions listed on this enclosure are applicable for activities in the Buffalo District for Ohio. Comments on regional issues pertinent to the proposed NWPs and regional conditions should be sent to Kathleen M. Ryan, U.S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, New York 14207-3199; telephone (716) 879-4392, or by email: kathleen.m.ryan@usace.army.mil Comments are due by September 24, 2001. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

For those NWPs that result in a discharge into waters of the United States, individual Tribal or State Section 401 Water Quality Certification or waiver is required. Additionally, State Coastal Zone Management Act consistency concurrence or waiver is required for those NWP activities within or affecting the State's Coastal Zone. The Corps believes, in general, that these NWPs comply with State Water Quality Certification standards and are consistent with State Coastal Zone Management Plans. However, Corps Districts are working individually with the appropriate State or Tribal agencies to identify and resolve any issues before finalizing these NWPs.

Provisional determinations, including environmental documents, have been prepared indicating that these NWPs comply with the requirements for issuance under general permit authority. These documents, as well as the proposed NWPs and public hearing information, are available for viewing at the Buffalo District, 1776 Niagara Street, Buffalo, New York or on the Internet at the addresses listed below.

The Corps will prepare final decision documents when the NWPs are issued or modified. These documents will be available as indicated in the preceding paragraph. Furthermore, the NWP decision documents will be supplemented by Division Engineers to address their decision concerning regional conditions of the NWPs.

Enclosed is an index of the proposed NWPs and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWPs through the Corps Home Page or GPO Federal Register address listed

below.

Internet Addresses:

<http://www.usace.mil/inet/functions/cw/cecwo/reg/>. As an alternate, World Wide Web users can access the Federal Register through the Government Printing Office (GPO) at <http://www.access.gpo.gov/>.

Paul G. Leuchner
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously until September 24, 2001.

Index of Nationwide Permits, Conditions, Further Information, and Definitions

Proposed Nationwide Permits

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Maintenance
8. Oil and Gas Structures
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects*
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Oil Spill Cleanup
21. Surface Coal Mining Activities*
22. Removal of Vessels
23. Approved Categorical Exclusions
24. State Administered Section 404 Programs
25. Structural Discharges
26. RESERVED
27. Stream and Wetland Restoration Activities*
28. Modifications of Existing Marinas
29. Single-family Housing
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities*
32. Completed Enforcement Actions
33. Temporary Construction, Access and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation*
38. Cleanup of Hazardous and Toxic Waste
39. Residential, Commercial and Institutional Developments*
40. Agricultural Activities*
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities*
43. Stormwater Management Facilities*
44. Mining Activities

Nationwide Permit General Conditions

1. Navigation
 2. Proper Maintenance
 3. Soil Erosion and Sediment Controls
 4. Aquatic Life Movements*
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5. Equipment

6. Regional and Case-by-Case Conditions
7. Wild and Scenic Rivers
8. Tribal Rights
9. Water Quality*
10. Coastal Zone Management
11. Endangered Species
12. Historic Properties
13. Notification*
14. Compliance Certification
15. Use of Multiple Nationwide Permits
16. Water Supply Intakes
17. Shellfish Beds
18. Suitable Material
19. Mitigation*
20. Spawning Areas
21. Management of Water Flows*
22. Adverse Effects from Impoundments
23. Waterfowl Breeding Areas
24. Removal of Temporary Fills
25. Designated Critical Resource Waters
26. Fills Within 100-year Floodplains*
27. Construction Period*

Definitions

Best Management Practices
 Compensatory Mitigation
 Creation
 Enhancement
 Ephemeral Stream
 Farm Tract
 Flood Fringe
 Floodway
 Independent Utility
 Intermittent Stream
 Loss of Waters of the United States
 Non-tidal Wetland
 Open Water
 Perennial Stream
 Permanent Above-grade Fill
 Preservation
 Restoration
 Riffle and Pool Complex
 Single and Complete Project
 Stormwater Management
 Stormwater Management Facilities
 Stream Bed
 Stream Channelization
 Tidal Wetland
 Vegetated Buffer
 Vegetated Shallows
 Waterbody

***proposed change, simplification or modification to NWP or General Condition**

Regional Conditions for Nationwide Permits in Ohio

3. *Maintenance.*

- i. (Maintenance) Notification required prior to the use of vertical sheet piling and closed structures in the special habitat waters of Lake Erie (See General Conditions, Critical Resource waters (1)).
- ii. (Discharges of dredged or fill material associated with removal of accumulated sediment and debris in the vicinity of existing structures) Limited to 50 feet upstream and/or 50 feet downstream of structure.

12. *Utility Activities.*

- i. Notification for aerial transmission lines over Section 10 waters must include the nominal system voltage and the additional clearance above low steel for bridges, if available, or above maximum high water elevation.
- ii. (Utility line substations) Notification is required for all work in waters of the U.S., including special aquatic sites.
- iii. (Foundations for overhead utility line towers, poles, and anchors) Notification is required for all stream work (perennial, intermittent, and ephemeral).
- iv. (Access roads) Notification is required for impacts greater than 1/10 acre in waters of the U.S., including wetlands.

14. *Linear Transportation Crossings.*

- Notification is required for activities in Section 10 waters.
- Notification is required for all ephemeral stream impacts greater than 300 linear feet.
- Notification is required for all perennial stream impacts.
- Notification is required for all intermittent stream impacts greater than 200 linear feet.

27. *Stream and Wetland Restoration Activities.*

- Notification is required for all work in waters of the U.S., including special aquatic sites.

39. *Residential, Commercial, and Institutional Activities;* 42. *Passive Recreational Facilities;* and 43. *Stormwater Management Facilities.*

- Notification is required for ephemeral stream impacts greater than 300 linear feet.
- Notification is required for all impacts to Section 10 waters and wetlands adjacent to Section 10 waters.
- Notification is required for all intermittent and perennial stream impacts.
- No more than 300 linear feet of intermittent or perennial stream shall be impacted under this Nationwide permit.

40. *Agricultural Activities.*

- Perennial streams are excluded.
 - Notification is required for impacts greater than 200 linear feet in waters of the U.S.
- Note: These regional conditions apply to non-USDA program participants.

41. *Reshaping Existing Drainage Ditches.*

- Notification is required for all impacts.

44. *Mining Activities.*

Revoked from use in Ohio.

General Conditions:

- Notifications for all Nationwide permits should include a location map (USGS topographical map) and project drawings on 8 1/2" x 11" paper.
- Nationwide Permits shall not authorize any activity which impact bogs and/or fens.
- No Nationwide permit may be used in Lake Erie for purposes of diverting water from the Great Lakes.
- In order to determine if a project meets the terms and conditions of the Ohio EPA's 401 water quality certification, two copies of the following information is necessary:
 - All wetland delineations must include the latest approved version of the Ohio Rapid Assessment Method (ORAM) for wetland evaluation, long form. (This will assist OEPA in determining the category of wetland the applicant proposes to impact.) Two copies of the wetland delineation and ORAM score sheets should be submitted.
 - Photographs of the wetland.

NOTE: This information is in addition to the required information listed under General Condition 13 (Notification) of the NWP.

- Notification is required for all work in Critical Resource Waters.

The following are designated as **Critical Resource Waters**:

- Special habitat waters of Lake Erie including the shoreline, off shore islands, rock outcrops, and adjacent waters within the boundaries defined as 82° 22' 30" West Longitude, 83° 07' 30" West Longitude, 41° 33' 00" North Latitude, and 42° 33' 00" North Latitude.
- In Ohio, two areas have been designated critical habitat for the piping plover (Charadrius melodus) and are defined as lands 0.62 miles inland from normal high water line. Unit OH-1, extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area, Erie County, encompassing approximately 2.0 miles. Unit OH-2, extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park, Lake County, encompassing approximately 0.5 miles.
- Big and Little Darby Creeks (National Wild and Scenic River System): Big Darby Creek from Champaign-Union County line downstream to the Conrail railroad trestle and from the confluence with the Little Darby Creek downstream to the Scioto River. Little Darby Creek from the Lafayette-Plain City Road Bridge downstream to within 0.8 mile from the confluence with Big Darby Creek. Total designation is approximately 82 miles.
- Little Beaver Creek (National Wild and Scenic River System): Little Beaver Creek main stem, from the confluence of West Fork with Middle Fork near Williamsport to mouth; North Fork from confluence of Brush Run and North Fork to confluence of North Fork with main stem at Fredericktown; Middle Fork from vicinity of Co. Rd. 901 (Elkton Road) bridge crossing to confluence of Middle Fork with West Fork near Williamsport; West Fork from vicinity of Co. Rd. 914 (Y-Camp Road) bridge crossing east to

confluence of West Fork with Middle Fork near Williamsport. Total designation is 33 miles.

- Little Miami (Scenic component of the National System from Clifton to Foster) The portion from Foster to the Ohio River was designated a Recreational component of the National system. Total designation is 92 miles.

- Notification is required for all activities in state Wild and Scenic Rivers (see list below). The following are **State Wild and Scenic Rivers**:

Little Miami River - Clermont County line at Loveland to headwaters, including North Fork, Clermont County line at Loveland to confluence with East Fork and from the confluence with East Fork to Ohio River. Miles designated (approximate): 105

Sandusky River - US Rt. 30 in Upper Sandusky to Roger Young Memorial Park in Fremont. Miles designated (approximate): 65

Olentangy River - Delaware Dam to Old Wilson Bridge Road in Worthington. Miles designated (approximate): 22

Little Beaver Creek - *Wild segments* - West Fork from 1/4 mile downstream from Twp. Rd. 914 to confluence with Middle Fork. North Fork from Twp Rd. 952 to confluence with Little Beaver Creek. Little Beaver Creek from confluence of West and Middle Forks downstream to 3/4 mile north of Grimm's Bridge.

Scenic segments - North Fork from Ohio-Pennsylvania line downstream to Jackman Road. Middle Fork from Elkton Rd. (Twp. Rd. 901) downstream to confluence with West Fork. Little Beaver Creek from 3/4 mile north of Grimm's Bridge downstream to the Ohio-Pennsylvania line. Miles designated (approximate): Wild 20, Scenic 16

Grand River - *Wild segment* - from Harpersfield covered bridge downstream to Norfolk and Western Railroad trestle south of Painesville.

Scenic segment - from St. Rt. 322 bridge in Ashtabula County downstream to Harpersfield covered bridge. Miles designated (approximate): Scenic 33, Wild 23

Upper Cuyagoga River - Troy-Burton Township line in Geauga County to US Rt. 14. Miles designated (approximate): 25

Maumee River - Scenic segment - Ohio-Indiana line to St. Rt. 24 bridge west of Defiance.

Recreational segment - St. Rt. 24 bridge west of Defiance to US Rt. 25 bridge near Perrysburg. Miles designated (approximate): Scenic 43, Recreational 53

Stillwater River System - *Recreational segment* - Englewood dam to confluence with Great Miami River.

Scenic segments - Stillwater River from Riffle Road bridge in Darke Co. to Englewood dam. Greenville Creek from the Ohio-Indiana state line to the confluence with the Stillwater. Miles designated (approximate): Scenic 83, Recreational 10

Chagrin River - Aurora Branch from St. Rt. 82 bridge downstream to confluence with Chagrin. Chagrin River from confluence with Aurora Branch downstream to St. Rt. 6 bridge. East Branch from Heath Road bridge downstream to confluence with Chagrin. Miles designated (approximate): 49

Big and Little Darby Creeks - Big Darby Creek from the Champaign-Union County line downstream to the U.S. Rt. 40 Bridge, from the northern boundary of Battelle-Darby Creek Metro Park to the confluence with the Little Darby Creek downstream to the Scioto River. Little Darby Creek from the Lafayette-Plain City Road Bridge downstream to the confluence with Big Darby Creek. Miles designated (approximate): 84

Kokosing River - Knox/Morrow County line to confluence with Mohican River. North Branch of Kokosing from confluence with East Branch downstream to confluence with main stem. Miles designated (approximate): 48